IN THE DEBTS RECOVERY TRIBUNAL – II AT CHENNAI

Dated this the 4th day of August, 2026

PRESENT: **SHRI SHARANG DHAR UPADHYAY**
Presiding Officer

IA No.1206 of 2025 in
NDN (SA) No.823 of 2025

1. M/s Araa Leathers
Rep. by its Partners
New No.20 (Old No.45)
Thiruvengadam Street
Periamedu, Chennai – 600 003

2. Mr. S. Sundaram
S/o Mr. T. Selvaraj
39, Sankara Nagar II Street
Chrompet, Chennai – 600 044

3. Mr. S. Soundarajan
S/o Mr. T. Selvaraj
No.13/3, South Mada Street
Little Kancheepuram
Kancheepuram – 631 501

4. Mr. S. Prabhu Kumar
S/o Mr. T. Selvaraj
No.5, Bharatheeswarar Colony I Street
Kodambakkam, Chennai – 600 024

5. Mr. S. Arasu
S/o Mr. T. Selvaraj
No.13/5, B, South Mada Street
Little Kancheepuram
Kancheepuram – 631 501 **…Petitioners / Applicants**

Versus

1. The Authorised Officer
Indian Overseas Bank
Asset Recovery Branch
Ground Floor, Central Office Building
763, Anna Salai, Chennai – 600 002

2. Mr. Murugesan
S/o Natarajan
No.15/7, Flat No. GF-2
Anubhav Terrace, Judge Jambulingam Road
Chennai – 600 004

3. Mrs. A. Jayasri
W/o Arul Murugan
No.38/118, Jeevanlal Nagar
Vth Street, Tiruvottiyur
Tiruvallur District – 600 019 **...Respondents / Respondents**

ORDER

1. This Interlocutory Application is filed by the applicant praying to condone the delay of 820 days in filing the instant SA filed challenging the e-auction sale dated 30.12.2022 and consequent sale certificate dated 06.03.2025.

2. The SA is not numbered by the Registry for the reason that the same is filed beyond the period of limitation.

Case of the Petitioners / Applicants

3. The above SA has been filed challenging the e-auction sale held on 30.12.2022 and the sale certificate dated 06.03.2025 issued by the 1st respondent bank in favour of the Respondents 2 and 3.

4. There has been a delay of 820 days in filing the present SA and the said delay occurred only due to the action of the 1st respondent who had been giving false assurance that the sale certificate will not be issued

for the sale held on 30.12.2022 and further that the sale certificate will not be registered.

5. It is stated that the 4th Petitioner is the owner of the property and has been undergoing intensive medical treatment for a critical health condition, rendering it impossible to coordinate or respond timely to legal developments with his Counsel.

6. The delay is neither willful nor wanton but purely due to unavoidable and bonafide circumstances. The petitioners have a strong case on merits and are advised that they have substantial legal and factual grounds for contesting the impugned sale. If the delay is not condone, the applicants will be put to irreparable loss and hardship.

Counter by Respondent

7. The 1st respondent bank filed counter and typed set of documents. The above application is not maintainable either on law or on facts. The application is wholly unacceptable, as no evidence or medical records has been filed to substantiate such a claim. The delay therefore appears to be deliberate, intentional and a result of gross negligence, with no semblance of due diligence or bonafide effort demonstrated by the Petitioners / Applicants.

8. The allegation that the bank misled the applicants is completely unfounded. The appellants were fully aware of the auction conducted

on 30.12.2022 and the bank had clearly communicated the sale status in its letter dated 23.11.2023, 25.03.2024 and in the OTS proceedings, all of which the appellant himself initiated.

9. It is well settled law that proceedings under Section 17 of the SARFAESI Act are akin to a civil suit and Section 5 of the Limitation Act is not applicable and hence the petition for condonation of delay is not maintainable and deserves to be dismissed.

10. The respondent bank relied upon the judgment of the Hon'ble Supreme Court in Gopal Sardar vs. Karuna Sardar, International Asset Reconstruction Company of India Ltd., Vs. Oficial Liquidator of Aldrich Pharaceuticals Ltd., and judgment of Hon'ble Calcutta High Court in Akshat Commercials Ltd. V. Kalpana Chakraborty and judgment of Hon'ble Orrisa High Court in Urban Co-operative Bank Ltd. Vs. Debt Recovery Tribunal and submitted that the present IA is liable to be dismissed.

11. The respondent bank had also dealt with the main SA and has rebutted the contentions the applicants in this counter affidavit and has submitted that the main SA itself is liable to be dismissed.

<u>Point for consideration</u>

12. Upon consideration of the arguments of the Ld. Counsel for the Petitioners and the Ld. Counsel for the 1st Respondent Bank, the only point that arises for consideration is:

Whether the instant application filed for condonation of delay of 820 days delay in filing the above SA is liable to be allowed?

Answer to the Point for consideration

13. Section 17(1) of the SARFAESI Act, which reads as under, prescribes the period of limitation as 45 days for the purposes of challenging the measures initiated under the Act.

> "**17.** (1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, may make an application along with such fee, as may be prescribed, to the Debts Recovery Tribunal having jurisdiction in the matter **within forty-five days from the date on which such measure had been taken**:
>
> [Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]"

14. Section 17(1) of the SARFAESI Act prescribes the period of limitation as 45 days from the date of measure. Therefore, the applicant ought to have filed the SA within 45 days from the date of the Sale dated 30.12.2022. However, the same has been filed on 14.05.2025 with a delay of 810 days.

15. In so far as the prayer to condone the delay in filing the SA is concerned, it would be pertinent to refer to the decision of the Hon'ble

Apex Court. in "***Bank of Baroda and another Vs. Parasadilal Tursiram Sheetgrah Pvt. Ltd (AIR 2022 SC 3803)***", wherein the Hon'ble Supreme Court in para 12 had held as follows:-

> 12. " *the reason for providing a time limit of 45 days for filing an application under section 17 can easily be inferred from the purpose and object of the enactment. In Transcore v.Union of India and Another (2008(1) SCC 125) this court held that the SARFAESI Act is enacted for quick enforcement of the security. It is unfortunate that proceedings where a property that has been brought to sale had third party rights created under the provisions of the act, have remained inconclusive even after a decade."*

16. Moreover, it is no more res-integra that the proceedings under Section 17 of the SARFAESI Act is an original proceeding and necessary amendment in this regard had been brought out in the statute wherein the word 'appeal' had been substituted with 'application' in terms with the decision of the Hon'ble Supreme court in Transcore's Case reported in (2008) 1 SCC 125 holding that mentioning the Section 17 proceedings as appeal is a misnomer. Be that there is no provision for condoning the delay in original jurisdiction".

17. Moreover, in so far as the applicability of the provisions of the Limitation Act, 1963 is concerned, reliance can be placed upon the judgment of the Division Bench of the Hon'ble Calcutta High Court in "***Akshat Commercial Private Limited & Others v. Kaplana Chakraborty & Others (AIR 2010 CALCUTTA 138)",*** wherein the Hon'ble High Court after a detailed analysis has held that since the proceedings under

Section 17(1) of the SARFAESI Act are original in nature like a suit, Section 5 of the Limitation Act does not apply to such proceedings and therefore, DRT does not have jurisdiction to condone the delay by allowing the application filed under Section 5 of the Limitation Act. It is to be noted that though Special Leave Petitions (Civil) No.17529-31/2010 were filed against the said judgment and leave was granted by the Hon'ble Supreme Court, however, in view of the settlement between the parties, the said appeals were disposed of by the Hon'ble Supreme Court vide order dated 15.12.2021.

18. Similarly, the Division Bench of the Hon'ble High Court of Madras in "***Velar Engineering Works Private Limited v. The Authorised Officer / Chief Manager, Indian Bank, Kanchipuram and Others – CRP(NPD) Nos. 3785-3787/2012 in W.P. No. 31251/2018"*** has held that Section 5 of the Limitation Act has no application in the original proceedings like a suit before the DRT and therefore, the DRT has no jurisdiction to condone the delay in filing an SA by invoking Section 5 of the Limitation Act. Further, the appeal against the said order filed before the Hon'ble Supreme Court in SLP (Civil) Diary No.7023 of 2020 also was dismissed by the Hon'ble Supreme Court by its order dated 9.7.2020.

19. Further, in the recent ruling of the Hon'ble Apex Court in the case of "The Property Company (P) Ltd., Vs. Rohinten Daddy Mazda reported

in 2026 LiveLaw (SC) 19, it has been held that the Tribunals have no power to condone the delay.

20. Hence on consideration of the above rulings of the Hon'ble High Courts and the Hon'ble Supreme Court, this Tribunal is of the view that there is no enabling provision permitting this Tribunal to condone the delay in filing application under Section 17 of the SARFAESI Act.

21. Even on merits, the only ground raised by the applicant is the alleged ill-health of the 4th petitioner. However, the petitioners have failed to substantiate the said contention by producing any medical records or other supporting documents. Consequently, the submission regarding the ill-health of the 4th petitioner remains unsubstantiated. For the aforesaid reasons, the following:

ORDER

IA No.1206 of 2025 stands dismissed. Consequently, the unregistered SA with SA Dy No.823 of 2025 also stands dismissed. All pending IAs stands closed. A copy of this order be communicated to the parties concerned.

Sd/-
(SHARANG DHAR UPADHYAY)
PRESIDING OFFICER
DRT-II, CHENNAI

(Dictated to PS, who typed in the system directly, corrected, signed and pronounced by me in Open Court, on this 4th day of August, 2026)